IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3531 OF 2005

Shri Bhagu Sadu Malekar & Anr. ...Petitioners

V/s.

Smt.Bhimabai Balu Shinde & Anr. ...Respondents

Shri P.J. Shinde for the Petitioners.

CORAM : V.M. KANADE, J.

DATED : MARCH 5, 2007

P.C. :-

1. Heard the learned Counsel for the petitioner.

2. The petitioner takes exception to the order passed by the trial Court under Order VI, Rule 17 of the CPC whereby the trial Court permitted the application which was made by the respondent-original plaintiff for amendment of the plaint.

3. It is submitted that though initially the suit was filed, particulars of the property which was mentioned in para 1 of the plaint was only in respect of the land. However, in the meantime, the plaintiff constructed a new house on the said property. He, therefore, filed an application bringing these

subsequent developments on record. The learned Counsel for the petitioner herein submits that if the amendment is allowed, it would change the nature of the suit and also the cause of action.

4. In my view, since the amendment is made to bring on record the subsequent events in respect of the suit property, the trial court was justified in allowing their amendment application. So far as the question of cause of action is concerned, it is open for the petitioner to make proper application in the trial Court, if so advised, in which case the trial court shall decide whether the cause of action survive or not, in accordance with law. There is no reason to interfere with the impugned order.

. Writ petition, accordingly, is rejected. Hearing of the suit is expedited.

(V.M. Kanade, J.)